



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

June 1, 2015

Mychal Yellowman
Office of Surface Mining
Western Region
1999 Broadway, Suite 3320
Denver, Colorado 80202-5733

Subject: EPA Comments on the Four Corners Power Plant and Navajo Mine Energy Project Final Environmental Impact Statement, Navajo Nation, San Juan County, New Mexico (CEQ # 20150119)

Dear Mr. Yellowman:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act.

EPA reviewed the Draft Environmental Impact Statement (DEIS) and provided comments to the Office of Surface Mining (OSM) on June 26, 2014. We rated the DEIS as Environmental Concerns - Insufficient Information (EC-2) due to concerns regarding the existing contamination of groundwater from coal combustion residue (CCR) disposal and the need for enforceable commitments regarding future CCR management, monitoring and remediation. We also expressed concerns regarding the assessment of cumulative health impacts from continued operation of the project, given the severely compromised existing public health environment.

EPA is a cooperating agency for the project and has worked closely with OSM on the EIS. We appreciate the work OSM has done to incorporate and respond to our concerns. Our primary concerns regarding CCR management are addressed with the passage of EPA's Final CCR Rule and the commitment by Arizona Public Service to adhere to all requirements for waste characterization, groundwater monitoring, leachate collection systems, agency inspections, and closure for the ash disposal sites. We acknowledge that the FEIS also includes additional information regarding groundwater contamination from past disposal of CCR in the Navajo Mine. In response to our comment, OSM acknowledged the uncertainty regarding the possibility of vertical (fracture) flow, which was not accounted for in the model but which could affect the movement and residence time of bedrock groundwater and, thus, the assumption about attenuation of pollutants. Nevertheless, OSM affirmed its belief that constituents of concern would be attenuated as groundwater travels towards the San Juan River and the Chaco River, and noted that the Navajo Nation conducts monitoring of the San Juan River in accordance with its responsibility to ensure the designated uses are met.

In discussions with OSM and the other cooperating agencies, EPA had recommended that public notices discouraging the use of groundwater for livestock watering on the reclaimed mine areas be issued, since livestock grazing is a designated post-reclamation land use and the water is not of sufficient quality for

livestock consumption. OSM assures us that the Navajo Nation Environmental Protection Agency's water programs already provide the necessary protection and are the appropriate authority to address concerns regarding potential future uses of groundwater near the project area.

OSM responded to our concerns regarding the assessment of cumulative health impacts from continued operation of the project by modifying its conclusion of "minor" cumulative health impacts in the DEIS to "moderate" in the FEIS. It also identified actions that the mine operator is taking and will continue to take to reduce the health impacts from the use of coal from the Navajo Mine coal distribution program for home heating, including educational programs in coordination with Indian Health Services.

Additionally, the Navajo Transitional Energy Company informed us that the Navajo Tribal Utility Authority has added 2,307 residential electricity customers between 2006 and 2013 in the same Navajo chapters that participate in the Navajo Mine coal distribution program, leading to a corresponding 27% decrease in coal distribution for the same period.

EPA had recommended that a procedure for complaints regarding dust from the ash disposal piles be included. This complaint procedure is a component of the CCR Rule, and OSM notes that the Dust Control Plan for Four Corners Steam Electric Station contains procedures and contact information for public complaints regarding fugitive dust. It is not clear whether any outreach is planned to publicize this complaint procedure. We recommend that such outreach occur to help ensure that the procedure will be an effective avenue of communication from the public.

We appreciate the additional information in the FEIS regarding mine methane capture in response to our comment. The FEIS concludes that "mine methane capture was determined to be infeasible"; however, it is not clear whether it was determined to be technically or economically infeasible and, if the latter, whether California Air Resources Board (CARB) offset credits were considered in the methane capture project feasibility economics. We recommend that this be clarified in the Record of Decision. A surface coal mine methane project qualifies under the CARB Cap-and-Trade Program as a compliance offset with a value of about \$10/ton of carbon dioxide equivalent (tCo2e).

Finally, there is an error in the units for residual chlorine that will be allowed under the National Pollutant Discharge Elimination System (NPDES) permit on p. 4.5-2. We apologize for not identifying this error during our review of the Preliminary FEIS. The correct unit should be 954 lbs/day daily max or 0.2 mg/L daily max.

EPA appreciates the opportunity to review this FEIS. When the Record of Decision is signed, please send a copy to the address above (mail code: ENF-4-2). If you have any questions, please contact me at (415) 972-3521, or contact Karen Vitulano, the lead reviewer for this project, at 415-947-4178 or vitulano.karen@epa.gov.

Sincerely,



Kathleen Martyn Goforth, Manager
Environmental Review Section

cc: Russell Begaye, President, Navajo Nation
Donald Ben, Executive Director, Navajo Nation Environmental Protection Agency
Herman Honanie, Chairman, Hopi Tribe
Gayl Honanie, Environmental Director, Hopi Tribe